IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 39 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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INDUBHAI HARAKHLAL DAMANI

Versus

DAHYABHAI KALUBHAI SOLANKI

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Appearance:

1. Criminal Revision Application No. 39 of 1993

MR CH VORA for Petitioner No. 1-2

MR HJ TRIVEDI for respondent No.1

M/S MG DOSHIT & CO for Respondent Nos. 2-5

NOTICE UNSERVED for Respondent Nos.4

NOTICE SERVED for Respondent No. 2-3,5

MR HH PATEL, APP for Respondent No. 6

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CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 27/11/2002

ORAL JUDGEMENT

This Criminal Revision Application has been filed by the petitioners-original accused Nos.3 and 5 respectively being aggrieved by the order dated 21-11-1992 passed below application Ex.23 in Criminal Case No.405 of 1988 by the learned Judicial Magistrate (First Class) at Kalol whereby the learned Magistate has rejected the application for discharge submitted by the present petitioners.

2. The short facts are that a complaint was filed by the present respondent No.1-original complainant in the Court of learned Judicial Magistrate (First Class), Kalol and on receiving the same, it has been numbered as Criminal Case No.405 of 1988 wherein process has been issued by the learned Magistrate against the petitioners along with others and same has been duly served and they appeared through advocate. At the time of framing charge, an application Ex.23 was submitted by the present petitioners for discharge stating that since they have resigned from the Company as Managing Director and Director respectively, they may be discharged. However, said application has been rejected vide order dated 21-11-1992 against which, this revision application has been preferred.

3. Heard Mr.C.H.Vora, learned counsel for the petitioners. He has stated at the bar that petitioner No.1, Indubhai Harakhlal Damani died during the pendency of this petition and hence, this petition stands abated as regards petitioner No.1. This revision is heard on behalf of petitioner No.2, Prashantbhai Indubhai Damani. He has argued the same which he has contended in the petition.

4. It reflects from the order passed by the court below which is annexed with the petition at page 10 that the present petitioners have submitted one xerox copy of the alleged understanding before the court below which has not been accepted by the court at that stage stating that same can be appreciated at the time of trial.

5. I entirely agree with the said findings. Reliance is placed on the decision of this Court in the case of Dahyabhai Kalubhai Solanki Vs. M/s Kashiram Textiles Mills Pvt. Ltd. & Ors, 1994(2) G.L.R. 1166 more particularly towards head note which reads as under:

"Water (Prevention and Control of Pollution) Act, 1974 (VI of 1974)--Sec.21--Mandatory provisions of the sub-sections are to be complied with--If

there is substantial compliance with the provisions of sub-secs.(3),(4) and (5) the charge has to be framed."

6. In view of the aforesaid judgment and considering the facts and circumstances of this case, I do not think it necessary to interfere with the findings arrived at by the court below as the same being just, legal and proper. Hence, this Criminal Revision Application is required to be rejected.

7. This Criminal Revision Application is accordingly rejected. Rule discharged. Ad-interim relief granted earlier stands vacated forthwith. Court below is directed to proceed with the Criminal Case and dispose of the same expeditiously.

(R.P.DHOLAKIA,J.)

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